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Schools Within the Chickasaw Cession

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IN THE SENATE OF THE UNITED STATES.

APRIL 25, 1892.—Ordered to be printed.

Mr. WALTHALL, from the Committee on Public Lands, submitted the following

REPORT:

[To accompany S. 2885.]

The Committee on Public Lands, to whom was referred the bill (S. 2885) to authorize the legislature of the State of Mississippi to sell or lease the lands heretofore appropriated to the use of schools within the Chickasaw cession, and to ratify and approve the sales already made, having considered the same, report as follows:

The legislature of Mississippi, at its last session, memorialized Congress for the passage of an act, in the form of this bill, ratifying the sales of school lands heretofore appropriated for the support of schools in the Chickasaw cession in said State, and authorizing the State hereafter to make disposal of such lands, without the consent of the inhabitants previously had and obtained, as required by an act of Congress passed May 19, 1852. The memorial is appended hereto:

In response to a request for an expression by the Commissioner of the General Land Office of his views upon the bill he made a report in which, after setting out the bill in full, he says:

In reference to the subject, I have to report that Congress, at an early period, in providing for the sale of public lands in Mississippi reserved the sections numbered 16 for school purposes, and by act of May 19, 1852 (10 Stat., 6), authorized the State to sell and convey in fee simple, or lease for a term of years, all or any part of the lands theretofore reserved for school purposes. It appears, however, that that act provided that the said lands should not be sold or leased without the consent of the inhabitants of the township or district of country for which they were originally reserved. Some of these lands were, by acts of Congress of July 4, 1836 (5 Stat., 116), and June 13, 1842 (5 Stat., 490), reserved for the use of schools within the territory ceded by the Chickasaws. In the preamble of said bill (2885) it is recited that as regards the lands reserved for schools in the said territory no evidence of such consent on the part of the inhabitants of the district of country comprised within the Chickasaw cession can now be found; that the school lands in question have been sold and the proceeds held by the State as a sacred trust for schools within the Chickasaw cession, with the acquiescence of the people interested.

The passage of the bill is urged by a memorial from the legislature of Mississippi in which the same facts are stated that are recited in the preamble of the bill. (Congressional Record, April 12, 1892, page 3410.)

The provision in the act of 1852 that the consent of the inhabitants should be procured before the lands could be disposed of for the benefit of the school fund is unusual, no such provision being found in the laws making grants of lands for school purposes in the States generally to which such grants have been made.

The object of the bill appears to be the quieting of titles to the lands reserved by said acts of 1836 and 1842, for the benefit of schools in the territory covered by the Chickasaw cession and sold by the State under the said act of 1852, and I see no reason why it should not become a law.

The act of May 19, 1852, referred to by the Commissioner, authorizing the State to sell the lands theretofore reserved for school purposes, also authorized the investment of the money arising from said sales "for the use and support of schools within the several townships and districts of country for which they were originally reserved and set apart and for no other use or purpose whatsoever."

The interest upon the fund arising from the disposition of these lands is paid regularly and distributed among the counties entitled thereto for the support of schools therein. This is provided for in the constitution of the State. (Section 212.)

The titles of persons who bought these lands under authority of the legislature at their full value and paid the purchase money and made valuable improvements thereon, are under clouds because the "consent of the inhabitants" required by the act of 1852, can not, after the lapse of so many years, be established, nor does there seem to have been any express legislation on that subject by the State.

The inhabitants whose consent was required to be had have raised no objection, so far as known, to the titles of the purchasers, if indeed they are in condition to do so, since they get the benefit of the fund distributed to their counties and districts.

In the present state of the law there seems no reason to apprehend any interference with the purchasers through the court, but they are embarrassed by the imperfection in their titles when they undertake to dispose of their lands, for which they have paid full value.

Your committee therefore recommend the passage of the bill.

A memorial of the legislature of the State of Mississippi to the Senate and House of Representatives of the United States, on the subject of the lands heretofore appropriated for the support of schools within the Chickasaw cession, in said State.

Whereas Congress, by act of May 19, 1852 (10 Stat., 6), did authorize the legislature of the State of Mississippi "to sell and convey in fee simple, or lease for a term of years," as the said legislature might deem best, "all or any part of the" lands heretofore reserved and appropriated by Congress for the "use of schools within said State"—"with the consent of the inhabitants of such township or district, to be obtained in such manner as the legislature of said State may by law direct;" and

Whereas many sales of such lands have been made under authority of the legislature of said State, at their full value, the purchase money paid, and valuable improvements made thereon; and

Whereas no evidence of such consent on the part of the inhabitants of the district of country comprised within the Chickasaw cession can now be found; and

Whereas said district of country comprises many counties and parts of counties, townships and parts of townships, making it a matter of great difficulty to obtain the consent of the inhabitants thereof to any measure; and

Whereas the proceeds of such sales have always been held by the State as a sacred trust for the schools within the said Chickasaw cession, and are now so held; and the said schools have always received the full benefit of the interest thereon, and the people of said district of country, by so receiving and using said proceeds for many years without raising any question as to the entire validity of said sales of land have indicated their approval of the same:

This memorial of the legislature of the State of Mississippi respectfully begs your honorable bodies, in view of the premises and of the fact that good faith requires it, that an act be passed by Congress ratifying the sales of school lands heretofore appropriated for the support of schools in the Chickasaw cession, and authorizing the State hereafter to make disposal of such lands without the consent of the inhabitants previously had and obtained.

And your memorialists respectfully suggest the bill hereto appended as one which would be calculated to carry out the purpose of this memorial.

AN ACT to authorize the legislature of the State of Mississippi to sell or lease the lands heretofore appropriated to the use of schools within the Chickasaw cession, and to ratify and approve the sales already made.

Whereas Congress, by act of May nineteenth, eighteen hundred and fifty-two (ten Statutes, six), did authorize the legislature of the State of Mississippi "to sell and convey in fee simple or lease for a term of years, as the said legislature might deem best," all or any part of the lands heretofore reserved and appropriated by Congress for the "use of schools within said State" * * * "with the consent of the inhabitants of such township or district, to be obtained in such manner as the legislature of said State may by law direct;" and

Whereas many sales of such lands have been made under authority of the legislature of said State at their full value, the purchase money paid, and valuable improvements made thereon; and

Whereas no evidence of such consent on the part of the inhabitants of the district of country comprised within the Chickasaw cession can now be found; and

Whereas said district of country comprises many counties and parts of counties, townships and parts of townships, making it matter of great difficulty to obtain the consent of the inhabitants thereof to any measure; and

Whereas the proceeds of such sales have already been held by the State as a sacred trust for the schools within the said Chickasaw cession, and are now so held, and the said schools have always received the full benefit of the interest thereon, and the people of said district of country, by so receiving and using said proceeds for many years without raising any question as to the entire validity of said sales of land, have indicated their approval of the same:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all sales and leases of said lands heretofore made under authority of laws passed by the said legislature of the State of Mississippi are hereby in all respects ratified and approved.

SEC. 2. *And be it further enacted,* That sales or leases of said lands may hereafter be made under and by virtue of the laws passed by said legislature, and that the consent of such inhabitants shall not be requisite for the validity of such sales or leases.

I hereby certify that the foregoing attached memorial was adopted by the house of representatives of the State of Mississippi, 31st day of March, 1892.

R. E. WILSON,
Clerk of the House of Representatives.

I hereby certify that the foregoing attached memorial was adopted by the senate of the State of Mississippi, 1st day of April, 1892.

D. P. PORTER,
Secretary of the Senate.